***THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

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W.P.No. 7081 of 2005

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% 03.02.2006

Between:

G. Subrahmanyam S/o. Ranga Reddy
H.No. 6-10-325, Singalagunta, Tirupati, Chittoor District.

..... PETITIONER

AND

The Executive Officer, Tirumala Tirupati Devastanam,
Tirupati, Chittoor District and another.

.....RESPONDENTS

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! Counsel for the Petitioners: Sri H.Srinivasa Rao

^ COUNSEL FOR THE RESPONDENTS: Sri P.Harinath Gupta, Standing Counsel

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> Head Note:

? CITATIONS:

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THE HON'BLE MR. JUSTICE L. NARASIMHA REDDY

W.P.NO.7081 OF 2005

ORDER:

The petitioner was engaged as an NMR worker in the S.G.S Arts College Hostel, Tirupati, which is part of the Tirumala Tirupathi Devasthanams (for short 'Devasthanams'), with effect from
01-07-1976. Thereafter, he was appointed/promoted as a Clerk, with effect from 01-04-1978, and the same was ratified on
15-04-1978. Petitioner was promoted as Manager, in the cadre of Senior Assistant, through a resolution of the Hostel Committee, dated 21-03-1991. On 03-06-1991, the Board of Trustees of the Devasthanam (for short 'the Board') ratified the promotion of the petitioner. The 1st respondent issued a show cause notice dated 09-12-2004, pointing out that the promotion of the petitioner, as Manager, was irregular, inasmuch as the petitioner does not hold the requisite qualifications, and he was directed to show cause as to why he shall not be reverted to the post of Junior Assistant. Petitioner submitted his explanation on 23-12-2004. The 1st respondent issued proceedings dated 17-03-2005, reverting the petitioner to the post of Junior

Assistant. The same is challenged in this writ petition.

Petitioner submits that the 1st respondent as well as the Government have exempted him and several other workers, engaged in the Hostel, from the requirements of age and qualifications, and in that view of the matter, it is not open to the 1st respondent to revert him. He contends that the promotion, which was effected more than 15 years ago, cannot be set at naught at this stage.

On behalf of the respondents, a counter affidavit is filed. The particulars, as to the service of the petitioner, ever since he was engaged as NMR; are not disputed. It is pleaded that the appointment of the petitioner, as a Junior Assistant, was neither confirmed nor ratified, and that he did not possess the qualifications prescribed for the post of Manager (Senior Assistant). It is urged that the petitioner was promoted by mistake, and contrary to the rules and that he cannot derive any right out of it. It is also stated that the petitioner was never exempted from holding the qualifications, for the post of Manager (Senior Assistant).

Sri H. Srinivasa Rao, learned counsel for the petitioner submits that his client was promoted and appointed as a Clerk against a vacancy in 1978, and thereafter, was promoted as Manager (Senior Assistant) against a vacancy, which arose, on account of sudden demise of the incumbent in that post, viz., V. Venugopal. He contends that the petitioner never misrepresented any facts, and the orders, posting him the petitioner as Junior Assistant, and promoting him as Manager, were issued by the competent authorities, duly taking into account the standing and eligibility of the petitioner.

Learned counsel submits that even assuming that the petitioner does not hold the requisite qualification, the Devasthanam had exempted the petitioner from holding such qualifications, through its resolution dated 30-06-1994, and the consequential proceedings dated 19-07-1994. He also contends that as late as in the year 2001, the Government granted exemption, as to the requirements of age and qualifications, in respect of the petitioner and more than 100 other candidates, and in that view of the matter, there does not exist any justification for the respondents in reverting the petitioner, at this stage.

Sri P.Harinath Gupta, learned Standing Counsel for the respondents, on the other hand, submits that the exemption granted by the Devasthanam as well as the

Government was only in relation to the initial appointment to the posts, at the first stage, and was not in respect of the promotions. He contends that due to oversight and inadvertence, the petitioner was promoted, and thereafter, continued as Manager, and on noticing that he does not hold the requisite qualifications, orders of reversion were passed, duly following the prescribed procedure. He further submits that the petitioner cannot be continued as Manager, once it has emerged that he does not hold the required qualifications.

The petitioner and several others were engaged as NMRs in the year 1976, in the Hostels of one of the colleges, run by the Devasthanam. Even before he was regularized as NMR, the petitioner came to be appointed/promoted as Junior Assistant against the vacancy held by one Mr.P.Nagaiah, who was alleged to have absconded from duty. The matter, in relation to regularization of the NMRs, by granting exemption from the requirements of age and qualifications; was under consideration by the Board. At that stage, a vacancy in the post of Manager arose, on account of the death of one V.Venugopal. The petitioner was promoted against that vacancy, through order dated 21-03-1991, by the Hostel Committee. If it were to be a case where the promotion of the petitioner to the post of Manager took place without the knowledge or approval of the Board, or that the 1st respondent was not aware that the petitioner did not hold the requisite qualifications, different considerations altogether, would have arisen. It is a matter of record that at its meeting held on
30-06-1994, the Board granted exemption to the Hostel workers, including the petitioner, from possessing the requisite qualifications and upper age limit. The consequential proceedings were issued on 19-07-1994. The proceedings read as under:

> "By virtue of powers vested as per clause 5(1) of rules framed under G.O.ms.No.1060 Revenue (Endts-I), Dept. dated 24-10-1989, the TTD Board of Trustees, in their resolution read above, have exempted the Hostel workers from possessing the requisite qualifications and also relaxed the upper age limit in caste of the Hostel workers as per statement enclosed.
>
> The Principals/Chief Wardens of the TTD College Hostels are requested to make necessary entries in the service Registers of the Individuals and take further action.

Sl. No. Name & Place Date of birth qualifications Remarks

of working & Caste

1. 2. 3. 4. 5.

… … … … …

13. G.Subramanyam, Relaxed from

Manager/Sr.Asst. 9.10.52 (OC) Inter failed over age and

exempted from qualification

These proceedings clearly disclose that the case of the petitioner was considered against the post of Manager (Senior Assistant), and relaxation was granted, in the matter of age and qualifications, obviously, in relation to that post.

The Government accorded its approval through orders in G.O.Ms.No.673, dated 12-10-2001, in respect of 139 posts, in different categories. There, however, is one aspect, which needs to be taken into account. The Trustees of the Devasthanam through its Resolution No.192, dated 03-06-1991, decided to recommend for grant of exemption to 139 hostel workers, for regularization of their services, with effect from 03-06-1991. By that time, the case of the petitioner was considered against the post of Junior Assistant. The Government accorded its approval through its order in G.O.Ms.No.673, dated 12-10-2001. It reads as under:

> "…Accordingly, instructions were issued to all the Colleges for the regularization of the services of 139 hostel workers with effect from 3.6.1991. The Executive Officer, Tirumala Tirupathi Devasthanams, has, therefore, requested the Government to ratify the above action of the T.T.D. Board of Trustees.
>
> 2. After careful consideration of the manner, Government hereby ratify the action of the T.T.D. Board of Trustees in having created 139 posts in different categories to absorb the services of persons working on NMR/Consolidated Pay basis in the hostels attached to the Colleges under the management of Tirumala Tirupathi Devasthanams so as to extend all service benefits to the employees on par with T.T.D. employees.

3. The Executive Officer, Tirumala Tirupathi Devasthanams shall take further necessary action accordingly."

In resolution No.192, dated 03-06-1991, the Board did not deal with the case of the petitioner, against the post of Manager. On the other hand, the resolution of the Board, passed in 1994, which dealt with the case of the petitioner as Manager; was not the subject-matter of G.O.Ms.No.693. It, therefore, ultimately emerges that though the Board granted exemption to the petitioner, in relation to the post of Manager, the corresponding approval was not accorded by the Government.

What becomes evident from the above discussion is, that, on its part, the Board granted exemption to the petitioner from the requirement of age and qualifications vis-à-vis the post of Manager (Senior Assistant). However, there is no corresponding approval by the Government. The petitioner was not informed of, these facts, nor was he required to acquire the necessary qualifications. There is, in fact, serious lapse on the part of the respondents, in this regard. Instead of reverting the petitioner, after more than a decade of his promotion, the respondents could have stipulated reasonable time, within which, the petitioner must acquire the qualifications.

For the foregoing reasons, the writ petition is allowed, and the impugned order is set aside. It is directed that the petitioner must acquire the necessary qualifications for the post of Manager
(Senior Assistant), by the end of December, 2006, or in two attempts, in the concerned examinations, held hereafter; whichever is earlier. In case, the petitioner does not acquire the said qualifications, he shall be liable to be reverted to the post of Junior Assistant. There shall be no order as to costs.

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L. NARASIMHA REDDY, J.

Dt.03 –02-2006.

Note:

L.R. copy to be marked

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